

Appln No.: 09/674,191

Amendment Dated: March 12, 2005

Reply to Office Action of December 16, 2004

#### REMARKS/ARGUMENTS

This is in response to the Office Action mailed December 16, 2004 for the above-captioned application. Reconsideration and further examination are respectfully requested.

The Examiner rejected claims 15-17 and 22-26 under 35 USC § 112, second paragraph. Claim 15 has been amended to exclude the portions of the list that taken together did not exclude any lipids. In addition, claim 22 has been amended to include the complete name of ATTA, namely, N-(.omega.-N'-acetoxy-octa(14' amino-3',6',9',12'-tetraoxatetradecanoyl)). This definition of ATTA is known in the art, for example from US Patents Nos. 6,858,225, 6,586,559 and 6,320,017.

The Examiner rejected claim 1 as anticipated by Edger, US Patent No. 5,498,420. Claim 1 has been amended to define R<sup>2</sup> in such a way the two subunits of the compound are different, and to specify C<sub>6</sub> to C<sub>26</sub> alkyl or alkenyl groups. The acrylamide/acrylic acid copolymer disclosed in Edger does not anticipate the amended claim.

Claims 1, 2, 4, 9, 12-18 and 32-35 stand rejected as anticipated by Wheatley, US Patent No. 4,921,757 which discloses PEAA which would be the instance where Y is ethyl, and R<sup>1</sup>, R<sup>2</sup> and R<sup>3</sup> are hydrogen. Since R<sup>2</sup> no longer includes hydrogen as an option, in amended independent claims 1 and 13, the amended claims are not anticipated.

Claim 1 was rejected as anticipated by Andrianov, US Patent No. 5,500,161 which teaches a copolymer of methacrylic and acrylic acid. Since R<sup>2</sup> now defines alkyl groups as having at least 6 carbons, claim 1 as amended is not anticipated.

Claims 1, 2, 6, 9, 12-16, 19, 21, 22, 27-29, 32-35 and 38-46 are rejected as anticipated by Zalipsky et al., US Patent No. 5,395,619. Zalipsky discloses polymers such as polyhydroxyethyl-methacrylate and polyhydroxyethylacrylate that are end-modified with a lipid. Applicants submit that these compositions do not fall within the scope of the present claims, and accordingly that there is no anticipation. For example, the subunit in polyhydroxypropylmethacrylate would have a Y of methyl and X as a carbon-carbon bond, which are within the scope of the claims, but R<sup>2</sup> would be -CH<sub>2</sub>CH<sub>2</sub>CH<sub>2</sub>OH, which is not a permitted value within the scope of claim 1. Further, there is no indication that there is a mixture of derivatized and non-derivatized subunits in the polymers of the Zalipsky reference. The claims of the instant application, however, require two different type of subunits in the polymer. The, Zalipsky does not anticipate the claims now pending.

The Examiner also rejected claims 2-3, 6, 7, 10, 27-29, and 38-46 as obvious over Wheatley, claims 19-26, 30-31 and 38-46 as obvious over Wheatley in view of Woodle, US

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Patent No, 5,013,556, and claims 1, 2, 6, 9, 12-22, 27-35 and 38-46 as obvious over Zalipsky. These rejections are predicated on the correctness of the anticipation rejections. While not conceding the merits of the Examiner's arguments in these sections, Applicants submit that whatever modification is or is not made to the base references, they do not arrive at the invention as now claimed. Accordingly, Applicants submit that this rejection should be withdrawn.

For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully submitted,



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